S.B. CIVIL WRIT PETITION NO. 3067/2007.
(MANKI VS. CJ (SR.DIV.) VALLABHNAGAR & ORS.)

DATE OF ORDER : 03.08.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. Sachin Acharya for the petitioner.
Mr. Vijay Bishnoi, Caveator.

By this petition for writ validity, propriety and correctness of the order dated 12.04.2007 is questioned, whereby learned Civil Judge (Senior Division), Vallabhnagar accepted the Election Petition preferred by respondent Smt. Rekha assailing validity of election of the petitioner Smt. Manki as Sarpanch, Gram Panchayat, Baggad, Tehsil Vallabhnagar, District Udaipur.

Learned Civil Judge, while deciding the issue No.3 against the petitioner, held that Office of Sarpanch, Gram Panchayat, Baggad was reserved for a woman belonging to "OBC" and the petitioner being a member of "Scheduled Tribe" was not eligible to contest the election for the office concern.

The finding given by the learned Civil Judge is challenged by the petitioner on the count that in view of the Government of Rajasthan Notification dated 01.11.1996,

necessary corrections were made in revenue record and the family of the petitioner was treated as "Rawat" instead of "Meena". According to the petitioner, the fact referred above was not taken into consideration by the court below, while adjudicating the election petition.

Record of the trial court was called by the Court under the order dated 24.05.2007.

From perusal of the entire record, I found that the petitioner neither produced nor pleaded before the adjudicating court about the Notification dated 01.11.1996 and the subsequent entries made in revenue record. The contention raised by the petitioner, therefore, cannot be considered by this Court while exercising powers under Article 226 and 227 of the Constitution of India.

I have also examined the finding given by the trial court and I am satisfied that the same is based on sound appreciation of evidence and application of law. The learned trial court on basis of available evidence, specially relating to the fact that the other relatives of the petitioner including her husband always claimed themselves as a member of "Scheduled Tribe" to the extent that her husband contested an election in earlier

years by declaring himself as a member of "Scheduled Tribe". The finding given by the court subordinate does not suffer from any error that may be termed as perverse or touching to the jurisdiction. No interference, therefore, under Article 226 and 227 of the Constitution of India is warranted.

Accordingly, this petition for writ is dismissed.

(GOVIND MATHUR)J.

Anil/